

IN THE COURT OF APPEALS OF IOWA

No. 0-511 / 09-1759
Filed July 28, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JOHN ERWIN CIHA,
Defendant-Appellant.

Appeal from the Iowa District Court for Linn County, Denver D. Dillard
(Guilty Plea) and Kristin L. Hibbs (Sentencing), Judges.

A defendant appeals following his guilty plea and sentencing for third-
degree burglary. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney
General, Harold Denton, County Attorney, and Jerry Vander Sanden, Assistant
County Attorney, for appellee.

Considered by Vogel, P.J., and Doyle and Mansfield, JJ. Tabor, J., takes
no part.

VOGEL, P.J.

Following his guilty plea to burglary in the third degree as a habitual offender in violation of Iowa Code sections 713.1, 713.6A(1), and 902.8 (2007), John Ciha was sentenced to fifteen years in prison. Ciha appeals and asserts that the district court abused its discretion in sentencing him to prison when Ciha requested that he be sentenced to the drug treatment program, where he claims he would have had a better chance for rehabilitation.

In our abuse of discretion review, we find the district court considered all the relevant sentencing factors, including the information contained in the presentence investigation report, the arguments of counsel, Ciha's extensive criminal history with repeated probation and parole revocations, Ciha's need for rehabilitation, and the need to protect the community. See *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002) (stating "the decision of the district court to impose a particular sentence within the statutory limits is cloaked with a strong presumption in its favor"); *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999) ("In applying discretion, the court should weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant's age, character and propensities and chances of his reform."). Further, we find the district court was well within its discretion and Ciha's argument provides no basis for resentencing.

Additionally, Ciha filed a pro se brief, in which he makes ten one- or two-sentence claims in one and one-half pages. As the State points out, Ciha includes no analysis, no authority, and no citations to the record. See Iowa R. App. P. 6.903(g)(3) (stating the argument section shall include "[a]n argument

containing the appellant's contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record . . . [and f]ailure to cite authority in support of an issue may be deemed waiver of that issue"). "[A]ny consideration of the merits of the defendant's complaints by this court on appeal would require the court 'to assume a partisan role and undertake the [defendant's] research and advocacy,' a task we will not accept." *State v. Piper*, 663 N.W.2d 894, 913–14 (Iowa 2003) (citations omitted); *Metro. Jacobson Dev. Venture v. Bd. of Review*, 476 N.W.2d 726, 729 (Iowa Ct. App. 1991) (discussing that "[w]e do not utilize a deferential standard when persons choose to represent themselves" and pro se litigants are held to the same standards as attorneys). To the extent he raises ineffective-assistance-of-counsel claims regarding his guilty plea, regardless of the fact that he did not comply with the rules of appellate procedure, the record is not adequate to address the claims on direct appeal and Ciha will have an opportunity to raise them in possible postconviction relief proceedings. See *State v. Johnson*, ___ N.W.2d ___, ___ (Iowa 2010) (discussing that when raised on direct appeal, the appellate court must either address the claim or preserve it for postconviction relief proceedings, regardless of the viability of the claim). We affirm pursuant to Iowa Court Rule 21.29(1)(a), (c), and (e).

AFFIRMED.